

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

JERMAINE DORE,

Defendant.


No. 12-cr-45-2 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

The Court is in receipt of the attached letter from Defendant, which is dated November 15, 2020 but was received in chambers on December 7, 2020. IT IS HEREBY ORDERED THAT defense counsel shall review the letter with her client and advise the Court by December 18, 2020 whether the letter affects how Defendant wishes to proceed with his re-sentencing.

SO ORDERED.

Dated: December 8, 2020
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation

TERMAINE DORE

11-15-2020

66267-054

M.D.C BROOKLYN

8029th STREET

M.D.C BROOKLYN

NEW YORK 11232

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 12 CR 45

BJS

UNITED STATES OF AMERICA

AGANST

TERMAINE DORE

DEFENDANT

STATEMENT OF FACTS AND BE
HALF OF MR DORE FOR RESENTENCING

- ① THERE WERE SEEN TO BE SOME CONCERNING ISSUES BASED ON THE OTHER COUNTS DEFENDANT IS TO BE RESENTENCED ON.
- ② THE RECORDS CLEARLY STATED COUNT ONE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY. FOLLOWED BY SIX OTHER COUNTS FROM HOBBS ACT ROBBERY ON 924(C)(5). THE 924(C) COUNTS AND HOBBS ACT ROBBERY 924(C) AND 924(5) COUNTS IT ALSO LINK BACK TO COUNT ONE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY
- ③ DEFENDANT WAS CHARGED WITH CONSPIRACY TO COMMIT HOBBS ACT ROBBERY AND CAUSING THE DEATH OF A PERSON WITH A FIREARM AND WAS CONVICTED OF MURDER BY FIREARM DURING A CRIME OF VIOLENCE 18 U.S.C § 924(C)(5) 1. HERE THE PURPORTED CRIME OF VIOLENCE WAS CONSPIRACY TO COMMIT HOBBS ACT ROBBERY WHICH MAKES IT A CRIME TO CONSPIRE TO IN ANY WAY OR DEGREE OBSTRUCT DELAY OR AFFECT COMMERCE OR THE MOVEMENT OF ANY ARTICLE OR COMMODITY IN COMMERCE BY ROBBERY 18 U.S.C § 1951(A) SECTION 924(C)(3)(B) DEFINE CRIME OF VIOLENCE IN

TWO WAYS

- ④ CONSPIRACY TO COMMIT HOBBS ACT ROBBERY QUALIFIES ONLY IF IT MEET § 924(c)(3)(B)'S RESIDUAL DEFINITION. BY THAT DEFINITION A CRIME OF VIOLENCE IS A FELONY OFFENSE THAT BY IT IS NATURE INVOLVES A SUBSTANTIAL RISK THAT PHYSICAL FORCE AGAINST THE PERSON OR PROPERTY OF ANOTHER MAY BE USED IN THE COURSE OF COMMITTING THE OFFENSE § 924(c)(3)(B). DEFENDANT IS ARGUING THAT HIS CONVICTIONS UNDER § 924(c) MUST BE SET ASIDE BECAUSE § 924(c)(3)(B) RESIDUAL CLAUSE IS UNCONSTITUTION VAGUE. THE SUPREME COURT HAS NOW HELD THAT § 924(c)(3)(B) RESIDUAL DEFINITIONS IS UNCONSTITUTIONALLY VAGUE. SEE UNITED STATES V. DAVIS, 139 CT. 2319 (2019).
- ⑤ BECAUSE THE GOVERNMENT IS RELIED NOW ONLY ON THAT NOW INVALIDATED CLAUSE TO SUPPORTED DEFENDANT OTHER § 924(c) COUNT AND CONVICTIONS UNDER § 924(c) THESE COUNTS SHOULD BE VACATED IN LIGHT OF DAVIS
- ⑥ THE RECORD CLEARLY SHOW THAT COUNT ONE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY IS THE SUPPORTING CONTROLLING COUNT CHARGE IN ORDER TO RETRIEVE THE INDICTMENT AGAINST DEFENDANT.
- ⑦ THE GOVERNMENT KNEW THEY HAD TO RELIE ON THE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY IN ORDER TO BROUGHT CHARGES AGAINST DEFENDANT. BY THEM DOING SO THE GOVERNMENT TOOK A SINGLE 924(c) COUNT AND SEPERATED IN TO THREE COUNTS 4, 6, AND 7.
- ⑧ THE RECORD AND THE FACTS IS CLEAR THE DEFENDANT WAS FIRST CHARGED BY A GRAND JURY WITH CONSPIRACY TO COMMIT

HOBBS ACT ROBBERY AND CARRYING A FIREARM DURING THE CRIME OF VIOLENCE § 924(c) LINK TO CONSPIRACY TO COMMIT HOBBS ACT ROBBERY. THE GOVERNMENT LATER SUPERSEDED DEFENDANT WHICH COUNT TWO § 924(c) IN TO THREE MORE COUNTS OF § 924(c) and § 924(c)(1) and (2).

- ⑨ THE FACT IS CLEAR AND THE RECORD SHOW THAT COUNT TWO § 924(c) THAT IS NOW INVALID BASE ON UNITED STATES V. DAVIS IS IN FACT THE SAME § 924(c) CHARGE THAT WAS SUPERSEDED INTO THREE COUNTS, 4, 6, AND 7 § 924(c)(1) and (2).
- ⑩ THE RECORD AND THE FACT IS BEFOR THE COURT THAT THE GOVERNMENT TOOK TO THE GRAND JURY TO HAVE MR. DORE INDICTED AND BECAUSE OF THIS CONSPIRACY WHICH IS THE CONTROLLING PURPORTED COUNT OF THE INDICTMENT AGAINST DEFENDANT.
- ⑪ § 924(c) 5(1) AND (2) LINK TO CONSPIRACY TO COMMIT HOBBS ACT ROBBERY CLEARLY FAIL TO STATE AN OFFENSE.
- ⑫ IN LIGHT OF THE FACTS THAT DEFENDANT IS CHARGE FOR AND INDICTED AND CONVICTED OF CONSPIRACY TO COMMIT A STRING OF HOBBERY AND § 924(c)(1) AND (2) FROM ABOVE 2011 THROUGH TO 2012 IN CONNECTION WITH § 924(c)(1) AND (2). THE § 924(c) AND § 924(c) COUNTS ARE ALL PRECIPITATED ON THE CONDUCT OF THE COUNT ONE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY.
- ⑬ THE RECORD AND THE FACTS IS CLEAR THAT THE INDICTMENT AGAINST DEFENDANT IS BASE ON COUNT ONE CONSPIRACY TO COMMIT HOBBS ROBBERY THE CONTROLLING COUNT OF THE INDICTMENT AGAINST MR. DORE COUNT ONE THROUGH COUNT SEVEN OF THE INDICTMENT.

- ⑭ BASE ON THOSE FACTS AND JOHNSON V. UNITED STATES AND DAVIS V. UNITED STATES THE CONSPIRACY TO COMMIT HOBBS ACT ROBBERY IS UNCONSTITUTION VAGUE AND IS NO LAW AT ALL. FOR THAT REASON THE DEFENDANT COUNTS 2, 4, 6 AND 7 SHOULD BE SET ASIDE. IN LIGHT OF DAVIS AND JOHNSON.
- ⑮ IN CLOSING DEFENDANT ASK THE ^{COURT} TO CONSIDER THE DEFENDANT CONCERNS ~~AND~~ AND ISSUES BEFORE THE COURT.

6th CIRCUIT COURT OF APPELLATE

UNITED STATES V. LEDBETTER ET. AL (NOS. 17-3289/3290/3297/3299/
3302/3304/3306/3308/3309/6th CIR JULY 3-2019 UNITED STATES
V. HARRIS AND UNITED STATES V. ROBINSON 6th CIR CASES

RESPECTFULLY

SUBMITTED

JERMAINE DORE

66267-054

11-15-2020



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